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U.S. Department
of Transportation
**Federal Highway
Administration**

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Office of the Administrator

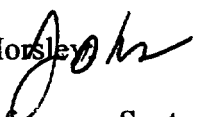
400 Seventh St., S.W.
Washington, D.C. 20590

October 1, 2002

Refer to: HEPS

Mr. John Horsley
Executive Director
American Association of State Highway
and Transportation Officials
Washington, DC 20001

FHWA-1999-5933-634

Dear Mr. Horsley 

Thank you for your September 19 letter regarding the Supplemental Notice of Proposed Rulemaking (SNPRM) we published on non-metropolitan transportation planning in the *Federal Register* on June 19, 2002.

I am pleased to receive the compromise proposal developed by AASHTO, NACo, and NADO. You and your cosigners have shown true leadership in achieving a compromise that balances the unique needs of your diverse membership. I appreciate the time you have devoted to making this compromise a reality.

With the comment period concluded, I have directed my planning staff to give top priority to completing review of all comments received on the SNRPM and developing a Final Rule as quickly as possible consistent with the Federal administrative rulemaking process.

I am providing identical replies to your cosigners. If you have any questions, please feel free to contact Ms. Cynthia J. Burbank, Associate Administrator for Planning and Environment. Her telephone number is 202-366-0116.

Sincerely,



Mary E. Peters
Administrator

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cc: S3, C, P, HOAES Files 3212 HPL
HCC-10 (Docket No. 99-5933)
TPA-5, TPL-1, TPL-12

IDENTICAL LETTERS TO:

Mr. John Horsley
Executive Director
American Association of State Highway
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Washington, DC 20001

Mr. Larry E. Naake
Executive Director
National Association of Counties
440 First Street, NW., Suite 800
Washington, DC 20001

Ms. Aliceann Wohlbruck
Executive Director
National Association of
Development Organizations
400 North Capitol Street, NW., Suite 390
Washington, DC 20001

**American Association of State Highway and Transportation Officials
National Association of Counties
National Association of Development Organizations**

September 19, 2002

The Honorable Mary Peters
Administrator
U.S. Federal Highway Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

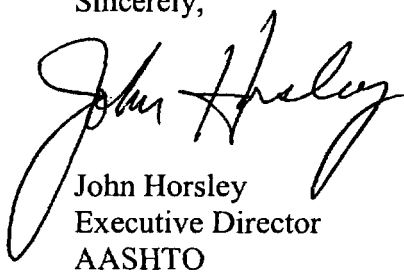
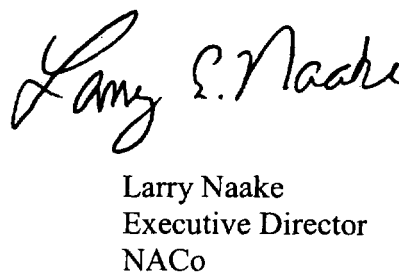
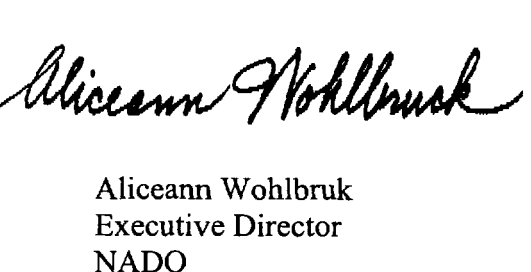
Dear Administrator Peters:

In our letter to you dated July 25, 2002 we indicated that our organizations were working to develop a compromise on the issue of the rural transportation planning regulations that were proposed on May 23, 2000 and in revised form on June 19, 2002. We appreciate your leadership in encouraging an extension of the comment period, which enabled our organizations to continue our discussions.

We are pleased to report that we have indeed reached what we believe is a fair and balanced compromise, and which has been agreed to by the leadership of our respective organizations on behalf of our members. As we indicated in our earlier letter to you, we expect the Federal Highway Administration to recommend to the Office of Management and Budget that the attached rural consultation compromise language be issued as a final rule.

Thank you for your consideration in this matter.

Sincerely,

		
John Horsley Executive Director AASHTO	Larry Naake Executive Director NACo	Aliceann Wohlbruk Executive Director NADO

**FHWA REGULATIONS ON INVOLVEMENT OF NON-METROPOLITAN OFFICIALS IN STATEWIDE TRANSPORTATION PLANNING
NACO-NADO-AASHTO COMPROMISE LANGUAGE**

Existing Regulations (23 CFR 450)	May 2000 NPRM	June 2002 NPRM	NACO-NADO-AASHTO Compromise Position
<p>§ 450.104 -- Definitions.</p> <p>*****</p> <p><i>Consultation</i> means that one party confers with another identified party and, prior to taking action(s), considers that party's views.</p>	<p>§ 1410.204 -- Definitions.</p> <p>*****</p> <p><i>Consultation</i> means that one party confers with another party, in accordance with an established process, about an anticipated action and then keeps that party informed about actions taken.</p>	<p>§ 450.104 -- Definitions.</p> <p>*****</p> <p><i>Consultation</i> means that one party confers with another identified party and, prior to taking action(s), considers that party's views and then keeps that party informed about action(s) taken.</p>	<p>§ 450.104 -- Definitions.</p> <p>*****</p> <p><i>Consultation</i> means that one party confers with another identified party in accordance with an established process and, prior to taking action(s), considers that party's views and periodically informs that party about action(s) taken.</p>
<p>§ 450.104 -- Definitions.</p> <p>*****</p> <p>No comparable definition.</p>	<p>§ 1410.204 -- Definitions.</p> <p>*****</p> <p><i>Non-metropolitan local official</i> means elected or appointed officials of general purpose local government, outside metropolitan planning areas, with jurisdiction/responsibility for transportation or other community development actions that impact transportation and elected officials for special transportation and planning agencies, such as economic development districts and land use planning agencies.</p> <p>[Does not contain a definition of "non-metropolitan area"]</p>	<p>§ 450.104 -- Definitions.</p> <p>*****</p> <p><i>Non-metropolitan area</i> means the geographic area outside designated metropolitan planning areas; as designated under 23 USC § 134 and 49 USC § 5303.</p> <p>[Does not contain a definition of "non-metropolitan local official"]</p>	<p>§ 450.104 -- Definitions.</p> <p>*****</p> <p><i>Non-metropolitan area</i> means the geographic area outside designated metropolitan planning areas, as designated under 23 USC § 134 and 49 USC § 5303.</p> <p><i>Non-metropolitan local official</i> means elected and appointed officials of general purpose local government, outside metropolitan planning areas, with jurisdiction/responsibility for transportation, as defined in the documented consultation process in Part 450 Section 212.</p>

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Existing Regulations (23 CFR 450)	May 2000 NPRM	June 2002 NPRM	NACO-NADO-AASHTO Compromise Position
<p>§ 450.206 – Statewide transportation planning process: General requirements.</p> <p>*****</p> <p>(b) The statewide transportation planning process shall be carried out in coordination with the metropolitan planning process required by subpart C of this part.</p>	<p>§ 1410.210 – Coordination of planning process activities.</p> <p>(a) The statewide transportation planning process shall be carried out in coordination with adjacent States, adjacent countries as appropriate at the international borders, and with the metropolitan planning process required by subpart C of this part.</p> <p>(b) The statewide transportation planning process shall be coordinated with air quality planning and provide for appropriate conformity analyses to the extent required by the Clean Air Act (40 U.S.C. 175 and 176). The State shall carry out its responsibilities for the development of the transportation portion of the State Implementation Plan to the extent required by the Clean Air Act (42 U.S.C. 7504), as appropriate within the statewide transportation planning process.</p> <p>(c) Development of transportation plans, programs and planning activities shall be coordinated with related planning activities being carried out outside of metropolitan planning areas.</p> <p>(d) The statewide transportation planning process shall provide a forum for coordinating data collection and analyses to support, planning, programming and project development decisions.</p> <p>(e) The degree of coordination shall be based on the scale and complexity of many issues including transportation problems, safety concerns, land use, employment, economic, environmental, and housing and community development objectives, and other circumstances statewide or in subareas within the State.</p>	<p>§ 450.206 – Statewide transportation planning process: General requirements.</p> <p>*****</p> <p>(b) The statewide transportation planning process shall be coordinated with the metropolitan planning process required by subpart C of this part and with related planning activities being carried out outside of metropolitan planning areas.</p> <p>(c) In carrying out statewide transportation planning, the State shall consider, with respect to non-metropolitan areas, the concerns of local elected officials representing units of general purpose local government.</p>	<p>§ 450.206 – Statewide transportation planning process: General requirements.</p> <p>*****</p> <p>(b) The statewide transportation planning process shall be carried out in coordination with the metropolitan planning process required by subpart C of this part and shall consider coordination with planning activities being carried out outside of the metropolitan areas.</p> <p>(c) In carrying out statewide transportation planning, the State shall consider, with respect to non-metropolitan areas, the concerns of local elected officials representing units of general purpose local government.</p>

**FHWA REGULATIONS ON INVOLVEMENT OF NON-METROPOLITAN OFFICIALS IN STATEWIDE TRANSPORTATION PLANNING
NACO-NADO-AASHTO COMPROMISE LANGUAGE**

Existing Regulations (23 CFR 450)	May 2000 NPRM	June 2002 NPRM	NACO-NADO-AASHTO Compromise Position
<p>§ 450.212 -- Public involvement.</p> <p>*****</p> <p>No comparable provision.</p>	<p>1410.212 -- Participation by interested parties.</p> <p>(a) Non-metropolitan local official participation.</p> <p>(1) The State shall have a documented process for consultation with local officials in non-metropolitan areas within the continuing, cooperative and comprehensive planning process for development of the statewide transportation plan and the statewide transportation improvement program. The process shall be documented and cooperatively developed by both the State and nonmetropolitan local officials.</p> <p>*****</p>	<p>§ 450.212 -- Public involvement.</p> <p>*****</p> <p>(h) The State shall provide for non-metropolitan local official participation. The State shall have a documented process(es) for consulting with non-metropolitan local officials representing units of general purpose local government and/or local officials with responsibility for transportation that results in their effective participation in the statewide transportation planning process and development of the statewide transportation improvement program.</p>	<p>§ 450.212 -- Public involvement.</p> <p>*****</p> <p>(h) The State shall provide for non-metropolitan local official participation. The State shall have a documented process(es) that is separate and discrete from the public involvement process for consulting with non-metropolitan local officials representing units of general purpose local government and/ or local officials with responsibility for transportation that provides an opportunity for their participation in the statewide transportation planning process and development of the statewide transportation improvement program.</p>

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NACO-NADO-AASHTO COMPROMISE LANGUAGE**

Existing Regulations (23 CFR 450)	May 2000 NPRM	June 2002 NPRM	NACO-NADO-AASHTO Compromise Position
<p>§ 450.212 -- Public involvement.</p> <p>*****</p> <p>No comparable provision.</p>	<p>§ 1410.212 -- Public involvement.</p> <p>*****</p> <p>No comparable provision.</p>	<p>§ 450.212 -- Public involvement.</p> <p>*****</p> <p>No comparable provision.</p>	<p>§ 450.212 -- Public involvement.</p> <p>*****</p> <p>(i) The State shall review and solicit comments from non-metropolitan local officials and other interested parties for a period of not less than 60 days regarding the effectiveness of the consultation process and proposed modifications within 2 years of process implementation ,and thereafter at least once every 5 years. A specific request for comments shall be directed to the state association of counties, state municipal league, regional planning agencies, or directly to non-metropolitan local officials.</p> <p>The State, in its discretion, shall be responsible for determining whether to adopt any proposed modifications. If a proposed modification is not adopted, the State shall make publicly available its reasons for not accepting the proposed modification, including notification to non-metropolitan local officials or their associations.</p>

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Existing Regulations (23 CFR 450)	May 2000 NPRM	June 2002 NPRM	NACO-NADO-AASHTO Compromise Position
<p>§ 450.212 – Public involvement.</p> <p>*****</p> <p>No comparable provision.</p>	<p>1410.212 – Participation by interested parties.</p> <p>(a) Non-metropolitan local official participation.</p> <p>*****</p> <p>(2) The process for participation of nonmetropolitan local officials shall not be reviewed or approved by the FHWA and the FTA. However, local official participation will be among the issues considered by the FHWA and the FTA in making the transportation planning finding called for in § 1410.222(b).</p>	<p>§ 450.212 – Public involvement.</p> <p>*****</p> <p>No comparable provision.</p>	<p>§ 450.212 – Public involvement.</p> <p>*****</p> <p>No provision.</p>

**FHWA REGULATIONS ON INVOLVEMENT OF NON-METROPOLITAN OFFICIALS IN STATEWIDE TRANSPORTATION PLANNING
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Existing Regulations (23 CFR 450)	May 2000 NPRM	June 2002 NPRM	NACO-NADO-AASHTO Compromise Position
<p>§ 450.214 – Statewide transportation plan.</p> <p>*****</p> <p>No comparable provision.</p>	<p>§ 1410.214 – Content and development of statewide transportation plan.</p> <p>*****</p> <p>(b) The following entities shall be involved in the development of the statewide transportation plan:</p> <p>(1) MPOs shall be involved on a cooperation basis for the portions of the plan affecting metropolitan planning areas;</p> <p>(2) Indian Tribal Governments and the Secretary of the Interior shall be involved on a consultation basis for the portions of the plan affecting areas of the State under the jurisdiction of an Indian Tribal Government;</p> <p>(3) Federal lands managing agencies shall be involved on a consultation basis for the portions of the program affecting areas of the State under their jurisdiction;</p> <p>(4) Affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the plan in nonmetropolitan areas of the State.</p>	<p>§ 450.214 – Statewide transportation plan.</p> <p>*****</p> <p>(f) In developing the statewide transportation plan, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the plan in non-metropolitan areas of the State.</p>	<p>§ 450.214 – Statewide transportation plan.</p> <p>*****</p> <p>(f) In developing the statewide transportation plan, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the plan in non-metropolitan areas of the State.</p>

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NACO-NADO-AASHTO COMPROMISE LANGUAGE**

Existing Regulations (23 CFR 450)	May 2000 NPRM	June 2002 NPRM	NACO-NADO-AASHTO Compromise Position
<p>§ 450.216 – Statewide transportation improvement program (STIP).</p> <p>*****</p> <p>No comparable provision.</p>	<p>§ 1410.216 – Content and development of statewide transportation improvement program (STIP).</p> <p>*****</p> <p>(b) The following entities shall be involved in the development of the statewide transportation improvement program:</p> <p>(1) MPOs shall be involved on a cooperation basis for the portions of the program affecting metropolitan planning areas;</p> <p>(2) Indian Tribal Governments and the Secretary of the Interior shall be involved on a consultation basis for the portions of the program affecting areas of the State under the jurisdiction of an Indian Tribal Government;</p> <p>(3) Federal lands managing agencies shall be involved on a consultation basis for the portions of the program affecting [*33947] areas of the State under their jurisdiction; and</p> <p>(4) Affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the program in nonmetropolitan areas of the State.</p>	<p>§ 450.216 – Statewide transportation improvement program (STIP).</p> <p>*****</p> <p>(e) In developing the statewide transportation improvement program, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the program in non-metropolitan areas of the State.</p>	<p>§ 450.216 – Statewide transportation improvement program (STIP).</p> <p>*****</p> <p>(e) In developing the statewide transportation improvement program, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the program in non-metropolitan areas of the State.</p>

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Existing Regulations (23 CFR 450)	May 2000 NPRM	June 2002 NPRM	NACO-NADO-AASHTO Compromise Position
No comparable provision.	No comparable provision.	<p>§ 450.224 -- Phase-in of new requirements.</p> <p style="text-align: center;">*****</p> <p>(b) The State has a period of six months after [30 days after publication of the final rule in the Federal Register] to document and implement the consultation process discussed in § 450.212(h).</p>	<p>§ 450.224 -- Phase-in of new requirements.</p> <p style="text-align: center;">*****</p> <p>(b) The State has a period of one year after [30 days after publication of the final rule in the Federal Register] to document and implement the consultation process discussed in § 450.212(h).</p>